

REMARKS

Claims 1-6, 16, 17, and 32-39 are pending. Claims 1, 2 and 6 are amended and claims 38-39 are canceled herein, without prejudice. Favorable reconsideration in light of the amendments and remarks which follow is respectfully requested. Support for the claim amendments is found throughout the specification and claims as originally filed (e.g. see [0015], [0033], [0039], [0047]-[0050], [0052]-[0053]), and no new matter is presented by the amendment.

Any cancellation of the claims should in no way be construed as acquiescence to any of the Examiner's rejections and was done solely to expedite the prosecution of the application. Applicant reserves the right to pursue the claims as originally filed in this or a separate application(s). Favorable reconsideration in light of the remarks which follow is respectfully requested.

3. 35 U.S.C. §103 Rejections

Claims 1-6, 16, 17 and 32-39 are rejected under 35 U.S.C. §103(a) over US 5,725,368 (Arensmeier), US 5,233,166 (Maeda et al), US 5,997,998 (Sawamura), and US 5,899,684 (McCoy et al). Applicants respectfully traverse.

Arensmeier is not at all related to nor does it teach or suggest anything with respect to a system for controlling re-ignition of an igniter after a loss of flame has been detected. It is further noted that according to Arensmeier, the system applies power to the igniter so as to reach ignition temperature, followed by powering the igniter so as to maintain the igniter at ignition temperature for an additional time period.

Maeda and Sawamura are cited for allegedly describing igniters that are capable of quickly reaching high temperatures. It is noted that Maeda and Sawamura aren't at all related to nor do they suggest anything with respect to a control system. Further, Maeda and Sawamura fail to teach or suggest anything with respect to system for controlling re-ignition of an igniter after a loss of flame has been detected.

McCoy is further cited for allegedly describing a system for controlling a fuel oil

burner so as to operate the burner at stand by mode for aiding in assuring fast re-ignition. Without agreeing with or acquiescing to this allegation, Applicants have amended the claims to specify that the present control device is configured and arranged such that following successful ignition, the control device controls and adjusts the gas flow, the current and the voltage such that the so the igniter is maintained at a temperature less than the gas ignition temperature but above room temperature, and such that upon detection of a loss of flame, the control device adjusts the amount of gas flow and the amount of voltage and current applied to the igniter such that the igniter is re-heated and the gas is re-ignited within about 4 second or less. McCoy clearly does not teach or suggest such a system or control device.

According to McCoy, if a flame is lost following successful ignition (see Fig. 5), the device is completely de-energized and "turn OFF" or "Shutdown" occurs (see, e.g. col. 16, lines 35-47). In any case, according to McCoy the system is configured such that during STARTUP full wave AC (or DC) voltage is provided, followed by half-wave DC (or AC) voltage during RUN to reduce carbon buildup on the igniter electrode.

Nowhere does McCoy teach or suggest Applicants' control device which adjusts and regulates the flow of gas, voltage and current following successful ignition, and which further adjusts and regulates the flow of gas, voltage and current if a loss of flame is detected, or wherein such parameters are adjusted and regulated such that igniter is re-heated and the gas is re-ignited within about 4 second or less after the loss of flame is detected.

Applicants further submit that the arguments previously provided and submitted herein regarding the combination of Arensmeier, Maeda, Sawamura and McCoy are not arguments solely on the basis of the references individually. Rather, Applicants argue that none of Arensmeier, Maeda, Sawamura or McCoy teach or suggest a system including a control device that controls re-ignition of an igniter after a loss of flame has been detected (in particular, as recited in the claims, a control device configured and arranged so that following successful ignition of the gas, the control device adjusts the amount of gas flow and the amount of voltage and current applied to the igniter so the

electrical resistance igniter is maintained at a temperature less than the gas ignition temperature but above room temperature, and wherein upon detection of a loss of flame, the control device adjusts the amount of gas flow and the amount of voltage and current applied to the igniter such that the electrical resistance igniter is re-heated and the gas is re-ignited within about 4 second or less). It is entirely proper to argue that four references, all of which are devoid of a claimed features, do not teach or suggest the claimed feature even when combined.

In view thereof, it is respectfully submitted that claims 1 and 6 are patentable over Arensmeier, Maeda, Sawamura and McCoy. Claims 2-5, 16, 17, 32-37 depend from claims 1 and 6, and thus also are patentable over Arensmeier, Maeda, Sawamura and McCoy. Reconsideration and withdrawal of the rejections is respectfully requested in view thereof.

2. Double Patenting

Claims 1-6, 16-17 and 32-39 are rejected on the ground of nonstatutory obviousness-type double patenting over claims 1-36 of U.S. 7,148,454 (Chodacki et al) in view of Maeda, Sawamura and McCoy.

Applicants will address the rejection when the application is otherwise in condition for allowance.

CONCLUSION

It is respectfully submitted that the subject application is in a condition for allowance. Early and favorable action is requested. If for any reason a fee is required, a fee paid is inadequate or credit is owed for any excess fee paid, you are hereby authorized and requested to charge Deposit Account No. 04-1105.

Dated: June 15, 2011

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